

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**UNITED STATES OF AMERICA**

**PLAINTIFF**

**v.**

**No. 1:10CR95-SA-DAS**

**CESAR AMADO LOPEZ-CASTILLO**

**DEFENDANT**

**CERTIFICATE OF APPEALABILITY**

A notice of appeal having been filed in the above captioned case from either the final order in a *habeas corpus* proceeding in which the detention complained of arises out of process issued by a state court under [28 U.S.C. § 2254](#) or the final order in a proceeding under [28 U.S.C. § 2255](#) or [28 U.S.C. § 2241](#), the court, considering the record in the case and the requirements of [Fed. R. App. P. 22\(b\)](#) and [28 U.S.C. § 2253\(c\)](#), hereby finds that:

**PART A**

☐ the applicant has made a substantial showing of the denial of a constitutional right.

SPECIFIC ISSUE(S):

☒ **a certificate of appealability should not issue.**

REASONS FOR DENIAL: For the reasons stated in its opinion and final judgment, the court finds that the Petitioner has failed to “demonstrate that the issues are debatable among jurists of reason; that a court could resolve issues in a different manner; or that the questions are adequate to deserve encouragement to proceed further.” [Barefoot v. Estelle, 463 U.S. 880, 893 n.4, 103 S.Ct. 3383, 3394 n.4, 77 L.Ed.2d 1090 \(1993\)](#) (superseded by statute) (citations and quotations omitted); [28 U.S.C. § 2253\(c\) \(1\) and \(2\)](#). Specifically, the court finds, for the reasons set forth in its memorandum opinion and final judgment, that the instant Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 should be dismissed with prejudice as untimely filed.

**PART B (if applicable)**

- ☐ The party appealing is entitled to proceed *in forma pauperis*.
- ☒ **The party appealing is not entitled to proceed *in forma pauperis*.**

REASONS FOR DENIAL: The court finds that the petitioner's appeal is not taken in good faith because it is frivolous and has no possibility of success. See [Fed. R. App. P. 24](#).

**SO ORDERED**, this, the 12th day of March, 2015.

/s/ Sharion Aycock  
**U.S. DISTRICT JUDGE**